

objectives of and reasons for the modification and the basis for invoking the exception. If immediate effective regulatory action is required, then the documented evaluation may follow, rather than precede, the regulatory action.

(7) If there are two or more ways to achieve compliance with a certificate or the rules or orders of the Commission, or with written Corporation commitments, or there are two or more ways to reach a level of protection which is adequate, then ordinarily the Corporation is free to choose the way which best suits its purposes. However, should it be necessary or appropriate for the Commission to prescribe a specific way to comply with its requirements or to achieve adequate protection, then cost may be a factor in selecting the way, provided that the objective of compliance or adequate protection is met.

(b) In reaching the determination required by paragraph (a)(3) of this section, the Commission will consider how the backfit should be scheduled in light of other ongoing regulatory activities at the plant and, in addition, will consider information available concerning any of the following factors as may be appropriate and any other information relevant and material to the proposed backfit:

- (1) Statement of the specific objectives that the proposed backfit is designed to achieve;
- (2) General description of the activity that would be required by the Corporation in order to complete the backfit;
- (3) Potential change in the risk to the public from the accidental release of radioactive material;
- (4) Potential impact on radiological exposure of facility employees;
- (5) Installation and continuing costs associated with the backfit, including the cost of plant downtime;
- (6) The potential safety impact of changes in plant or operational complexity, including the relationship to proposed and existing regulatory requirements;
- (7) The estimated resource burden on the NRC associated with the proposed backfit and the availability of such resources;
- (8) The potential impact of differences in plant type, design, or age

on the relevancy and practicality of the proposed backfit; and

(9) Whether the proposed backfit is interim or final and, if interim, the justification for imposing the proposed backfit on an interim basis.

(c) No certificate will be withheld during the pendency of backfit analyses required by the Commission's rules.

(d) The Executive Director for Operations shall be responsible for implementation of this section, and all analyses required by this section shall be approved by the Executive Director for Operations or his or her designee.

[59 FR 48960, Sept. 23, 1994, as amended at 62 FR 6671, Feb. 12, 1997]

Subpart D—Safety

§ 76.81 Authorized use of radioactive material.

Unless otherwise authorized by law, the Corporation shall confine its possession and use of radioactive material to the locations and purposes covered by the certificate and/or approved compliance plan. Except as otherwise provided, the certificate or approved compliance plan issued pursuant to the requirements in this part entitles the Corporation to receive title to, own, acquire, receive, possess, and use radioactive material in accordance with the certificate.

§ 76.83 Transfer of radioactive material.

(a) The Corporation may not transfer radioactive material except as authorized pursuant to this section.

(b) Except as otherwise provided and subject to the provisions of paragraphs (c) and (d) of this section, the Corporation may transfer radioactive material:

- (1) From one component of the Corporation to another;
- (2) To the Department;
- (3) To the agency in any Agreement State which regulates radioactive materials pursuant to an agreement with the Commission under Section 274 of the Act, if the quantity transferred is not sufficient to form a critical mass;
- (4) To any person exempt from the licensing requirements of the Act and requirements in this part, to the extent permitted under the exemption;